

Exhibit

5

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

EMPLOYERS MUTUAL CASUALTY)
COMPANY,)
Plaintiff,) CIVIL ACTION NO:
) 2:05 -CV-01108-MEF
V.)
)
ARNBERG & ALLEN CONSTRUCTION,)
L.L.C.; STEPHEN D. ARNBERG,)
JIM ALLEN, MICHAEL O. LUNSFORD)
and DEBRA O. LUNSFORD.)
Defendants.)

AFFIDAVIT OF TERRY HARDESTY

STATE OF ALABAMA)
)
SHELBY COUNTY)

Before me, the undersigned, a Notary Public in and for the aforesaid county and state, personally appeared Terry Hardesty, who is known to me and who, having been duly sworn by me, deposes and says: . . .

1. My name is Terry Hardesty. I am a resident citizen of the State of Alabama. I am the claims supervisor for Employers Mutual Casualty Company (“EMCC”) at all relevant times for this claim. I am over twenty-one (21) years of age and have personal knowledge of the facts set forth in this

affidavit. I am competent to testify about the matters set forth in this affidavit made in support of EMCC's Motion for Summary Judgment.

2. EMCC was first informed of this claim on October 27, 2004 when Thompson Insurance, Inc. faxed the notice to EMCC. The notice is attached hereto as Exhibit A.

Further the affiant saith not.

Done this _____ day of November, 2006.

Terry Hardesty
Terry Hardesty
Employers Mutual Casualty Company

STATE OF ALABAMA)
)
SHELBY COUNTY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Terry Hardesty whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, Terry Hardesty executed the same voluntarily on the day the same bears date.

Given under my hand, this 16 day of November, 2006.

Kim Cooper
NOTARY PUBLIC
My Commission Expires: _____

Kim Cooper, Alabama State at Large
My Commission Expires July 5, 2008

Exhibit

A

ACORD

GENERAL LIABILITY NOTICE OF OCCURRENCE/CLAIM

OP ID RM DATE

10/27/04

PRODUCER PHONE (A/C, No, Ext): 334-277-8970

NOTICE OF OCCURRENCE	DATE OF OCCURRENCE AND TIME	AM	DATE OF CLAIM	PREVIOUSLY REPORTED
NOTICE OF CLAIM	10/26/04	PM		<input checked="" type="checkbox"/> YES, <input type="checkbox"/> NO
EFFECTIVE DATE	EXPIRATION DATE			RETROACTIVE DATE
01/01/00	01/01/05			
COMPANY	NAIC CODE:	CLAIMS MADE		
EMC Companies		MISCELLANEOUS INFO (Site & location code)		
POLICY NUMBER				
2K07242		REFERENCE NUMBER		

Thompson Insurance, Inc.
2951 Zelda Road (36106)
P.O. Box 11408

Montgomery AL 36111-0408

George W. Thompson, III

CODE: AGENCY:

CUSTOMER ID: ARNBE-1

INSURED

NAME AND ADDRESS	SOC SEC #:	CONTACT	CONTACT INSURED	WHERE TO CONTACT
Arnberg and Allen 55 Emerald Mountain Express Wetumpka AL 36093	197579	JIM ALLEN	(334) 514-1176 ARLEY	
RESIDENCE PHONE (A/C, No)	BUSINESS PHONE (A/C, No, Ext)	RESIDENCE PHONE (A/C, No)	BUSINESS PHONE (A/C, No, Ext)	WHEN TO CONTACT
334 567-2001				

OCCURRENCE

LOCATION OF OCCURRENCE
(Include city & state)DESCRIPTION OF OCCURRENCE
(Use separate sheet, if necessary)CLMT, LUNGSFORD, HAS CONTACTED INS RE DAMAGE TO HOUSE..PORCH
SEPARATING FROM HOUSE, ETC. EMC HAD COVERAGE FROM 1-1-00 TO
1-1-05

AUTHORITY CONTACTED

POLICY INFORMATION

COVERAGE PART OR FORMS (Insert form #s and edition dates)

GENERAL AGGREGATE

PROD/COMP OF AGG

PERS & ADV INJ

EACH OCCURRENCE

FIRE DAMAGE

MEDICAL EXPENSE

DEDUCTIBLE

1000

X PD

UMBRELLA/EXCESS

UMBRELLA

EXCESS

LIMITS:

1000000

5000

1000

BI SR/DCD

TYPE OF LIABILITY

PREMISES: INSURED IS

OWNFR

TENANT

OTHER:

TYPE OF PREMISES

OWNER'S NAME & ADDRESS (If not insured)

MANUFACTURER

VENDOR

OTHER:

OWNER'S PHONE (A/C, No, Ext):

TYPE OF PRODUCT

PRODUCTS: INSURED IS

MANUFACTURER

VENDOR

OTHER:

MANUFACT PHONE (A/C, No, Ext):

WHERE CAN PRODUCT BE SEEN?

OTHER LIABILITY INCLUDING COMPLETED OPERATIONS (Explain)

INJURED/PROPERTY DAMAGED

NAME & ADDRESS (Injured/Owner)

MICHAEL LUNSFORD
LTR FROM INS ATTACHED

PHONE (A/C, No, Ext)

AGE

SEX

OCCUPATION

EMPLOYER'S NAME & ADDRESS

PHONE (A/C, No, Ext)

DESCRIBE INJURY

FATALITY

DESCRIBE PROPERTY (Type, model, etc)

WHERE TAKEN

WHAT WAS INJURED DOING?

PHONE (A/C, No, Ext)

ESTIMATE AMOUNT

WHERE CAN PROPERTY BE SEEN?

PHONE (A/C, No, Ext)

WHEN CAN PROPERTY BE SEEN?

WITNESSES

NAME & ADDRESS

BUSINESS PHONE (A/C, No, Ext)

RESIDENCE PHONE (A/C, No)

REMARKS

FAXED TO EMC ON 10-27-04

REPORTED BY INS

REPORTED TO RETHA

SIGNATURE OF INSURED

SIGNATURE OF PRODUCER

George W. Thompson, III
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NOTE: IMPORTANT STATE INFORMATION ON REVERSE SIDE